IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3645 OF 2006

Shri Janardan Pandurang Kalap & Ors. ...Petitioners
Versus
State of Maharashtra ...Respondent
And
Kandivali Adarsh Nagar SRA Co-operative
Housing Society Ltd and Anr. ...Intervenors

Shri Manoj Kumar Upadhyay for the Petitioners.
Ms Sheela Tambe i/by Shri Manoj Bhat for intervenors.
Ms Mhaispurkar, A.G.P for the 1st and 2nd Respondents.

CORAM : ABHAY S.OKA, J.
DATED : APRIL 26, 2007.

P.C.:

1. Heard Advocates appearing for the parties. I have also heard the Advocate for intervenors. The challenge in this Petition is to the Judgment and Order dated 18th Mary, 2006 passed by the Administrator and Divisional Commissioner, Konkan Division, Mumbai. By the said order, an Appeal preferred by the Petitioners for challenging the order of eviction passed by the Competent Authority in exercise of powers under section 38 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (hereinafter referred to as the said Act of 1971). By the order passed by the competent authority, an order of eviction was passed against the Petitioners.

2. After having heard the Advocates appearing for the parties, I find that while deciding the statutory appeal preferred by the Petitioners, the Appellate Authority has not at all referred to the documents on

record. There are no findings recorded by the Appellate Authority and infact the Appellate Authority has recorded only the conclusions in the form of observations.

3. A statutory appeal is provided against an order of eviction. The statutory appeal could not have been disposed of by passing such a cryptic order. The impugned Judgment and Order does not indicate as to which documents were considered by the Appellate Authority. Only on this ground the order of Appellate Authority deserves to be quashed and set aside. The submission of the learned counsel for the intervenors was that the developer is ready and willing to provide necessary amount to the Petitioners to acquire temporary transit accommodation. Due to various disputes, Petitioners are not ready to accept the said offer.

4. Hence, I pass the following order:

(i) The impugned Judgment and Order dated 18th May, 2006 is quashed and set aside.

(ii) The Appeal/Desk/Slum-64/2006 is restored to the file of the Administrator and Divisional Commissioner, Konkan Division, Mumbai.

(iii) The parties are directed to appear before the

Administrator and Divisional Commissioner, Konkan Division, Mumbai on 4th June, 2007 at 11.00 a.m for fixing the schedule of hearing of the Appeal.

(iv) The Appellate Authority will decide the Appeal afresh in the light of observations made in this order as expeditiously as possible and in any event on or before 17th August, 2007.

(v) Till the disposal of the Appeal, ad-interim order passed by this Court on 25th May, 2006 will continue to operate.

(vi) The intervenors i.e the Applicants in Civil Application No.1558 of 2005 will be entitled to appear before the Appellate Court and make submissions.

(vii) All contentions of the parties on merits are expressly kept open.

(viii) Parties and concerned Authorities will act upon an authenticated copy of this order.

JUDGE